REMARKS

Applicants have thoroughly considered the Examiner's remarks in the October 6, 2005 Final Office action and respectfully request favorable reconsideration of the application. By this Amendment D, Applicants have amended claims 1, 20, 22, 26, and 35 to more clearly set forth the invention. Thus, claims 1-43 are presented in the application for further consideration.

Preliminary Matters

On behalf of Applicants, the undersigned and patent practitioners associated with the Customer Number 000321 respectfully request the Examiner to correct the previous removal the power of attorney by re-instating the undersigned and the patent practitioners associated with the Customer Number 000321 as the attorneys of record. Please refer to the attached letter from Mr. Mark S. Nowotarski, Reg. No. 47,828, dated November 7, 2005 regarding the erroneous change in power of attorney.

Also, Applicants respectfully submit that the Final Office action misquoted Applicants' response to Facciani et al., U.S. Patent No. 5,999,917 ("Facciani") in the July 5, 2005 response, because Applicants made no such statement with respect to the Facciani patent in the July 5, 2005 response. In fact, the January 3, 2005 Office action failed to cite the Facciani patent as a reference, and the Facciani reference did not become part of the record until the issuance of the October 6, 2005 Final Office action. As such, Applicants respectfully request the Office to acknowledge this error in a subsequent action for the record.

Claim Rejection

Claims 1-23, and 25-39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moran, U.S. Patent No. 6,430,542 ("Moran") in view of Facciani patent. Applicants submit that the combined reference of Moran and Facciani patents fail to disclose or suggest each and every element of the invention as claimed. In particular, the combined references fail to disclose or suggest **automatic** re-allocation of client's assets among the defined categories based on the liquidity analyses and **purchasing a series of pre-paid death benefit amounts based on the**

generated plan and that each of the pre-paid death benefit amounts is purchased by determining a one-time premium as a function of the performed liquidity analyses and the re-allocated assets.

As previously discussed and acknowledged by the Office action, the Moran patent fails to disclose or suggest the feature of "purchasing a series of pre-paid death benefit amounts". Applicants further submit that the Facciani patent fails to cure the deficiency of the Moran patent and also does not disclose or suggest at least the feature of "purchasing the series of pre-paid death benefit amounts." In fact, the Facciani patent teaches away from the automatic re-allocation of assets of the accounts by specifically disclosing that the system "notifies" the plan sponsor in the event that if any allocations are outside of their limits.

For example, the Facciani patent discloses in FIGS. 2A and 2B and in col. 6, lines 39-67 that, "the assets and corresponding liabilities are compared with preset limits to determine if the asset allocation indicates that the differences are beyond preset limits. If any allocations are outside of their limits, the plan sponsor is notified in step 42 about the current asset levels. Whether the plan sponsor is notified or not, the system continues with normal process in step 43 (emphasis added)." (Facciani, col. 6, lines 39-45). In other words, the Facciani patent fails to disclose or suggest "automatic" re-allocation by specifically sending a notification to the plan sponsor.

In addition, nowhere in the Facciani patent does it disclose or suggest the pre-paid death benefit amount as a result of the reallocation of client's assets. For example, the Facciani patent specifically indicates that it is the object of the invention to make "the administration of Non-Qualified Deferred Compensation (NQDC) plans simple, while keeping costs low for plan sponsors (emphasis added)." (Facciani, col. 2, lines 62-65). That is, "in cases where an asset group is overfunded (i.e., the assets exceed the liabilities), the excess assets may be transferred to other under-funded plans." (Facciani, col. 2, lines 22-25). In other words, instead of adjusting the benefit plan for employee A, the plan sponsor would transfer the excess assets for employee A to fund another employee's benefits so as to save the plan sponsor from overfunding employee A's benefits. (See also FIGS. 6, 7, and 8 and col. 7 65-67; col. 8, lines 1-57, indicating again that the system embodying the Facciani patent would only notify the plan sponsor in the event that an asset allocation is outside the limit).

Amended claim 1 recites, in part, "executing a computerized retirement protection module to generate a plan for **automatically** re-allocating the client's assets among the defined categories based on the liquidity analyses, said plan providing a re-allocation of at least a portion of the client's assets; and purchasing a series of pre-paid death benefit amounts based on the generated plan, **each of said pre-paid death benefit amounts being purchased by determining a one-time premium as a function of the performed liquidity analyses and the re-allocated assets.**" As such, Applicants assert that the Office fails to establish the *prima facie* elements of an obviousness objection, and the combined references fail to teach or suggest each and every element of the claimed invention. Therefore, Applicants present that amended claim 1 is patentable over the cited art. Claims 2 to 19 depend from claim 1 and recite additional features. Hence, claims 2 to 19 are also patentable over the cited art. Therefore, Applicants request the rejection of claims 1 to 19 under 35 U.S.C. §103(a) be withdrawn.

Amended claim 20 recites, in part, "**defining a second premium as a function of the adjusted value; and automatically redefining the pre-paid death benefit purchased with the second premium and the adjusted cash value of the product.**" Nowhere do the combined references disclose or suggest at least the features of defining a second premium as a function of the adjusted value, and the Facciani patent fails to cure the deficiency of the Moran patent for failing to disclose or suggest automatic redefining of the pre-paid death benefit purchased with the second premium and the adjusted cash value of the product. As such, Applicants present that the Office action fails to establish the *prima facie* elements of an obviousness rejection and that the rejection of claim 20, and its dependent claims 21-25, under 35 U.S.C. §103(a) be withdrawn.

Similarly, amended claim 26 recites, in part, "a retirement protection module for generating a plan to **automatically** re-allocate the assets of the client among the asset categories based on the liquidity analyses to provide protection of retirement funding for the client, **wherein said retirement protection module executes the plan retirement protection module by purchasing a pre-paid, variable life insurance product after re-allocating** at least a portion of the assets at relatively greater risk to the pre-paid, variable life insurance product having a one-time premium at relatively lower risk." Neither does the Moran nor the Facciani patent discuss or suggest at least the features of a combination of automatic re-allocation of

client's assets and purchasing a series of pre-paid, variable life insurance product **re-allocating at least a portion of the assets at relatively greater risk to the pre-paid, variable life insurance product having a one-time premium at relatively lower risk**. As such, the Office action fails to establish the *prima facie* elements of an obviousness rejection. Therefore, Applicants request that claim 26 as amended is distinguishable over the cited art, and its dependent claims 27-34 are also patentable over the cited art. Therefore, a rejection of claims 26 to 34 under 35 U.S.C. §103(a) should be removed.

Amended claim 35 recites, in part, "a computer implemented method comprising... **automatically** generating a plan sufficient to describe at least one of: said first pre-paid death benefit amount, said second pre-paid death benefit amount, and said adjusted pre-paid death benefit amount **as a function of the first one-time premium amount and/or the second one-time premium amount**. The combined references fail to disclose or suggest each and every element of the claimed invention. In particular, the combined references not only fail to disclose or suggest the fact of pre-paid death benefit amount, but they also fail to disclose or suggest at least the feature of adjusting pre-paid death benefit amount as a function of the first one-time premium amount and the second one-time premium amount. Therefore, Applicants submit that the Office fails to establish the *prima facie* elements of an obviousness rejection, and that amended claim 35 is patentable over the cited art. Claims 36-39 depend from claim 35 and are also patentable over the cited art. Therefore, the rejection of claims 35-39 under 35 U.S.C. §103(a) should be withdrawn.

Claims 20-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ryan, U.S. Patent No. 5,802,500 ("Ryan"). Applicants submit that the Office fails to give any weight to the Applicants arguments and assert that the Ryan patent continues to fail to disclose or suggest that each and every element of claim 20 even though it may be applied to the financial fields of insurance and benefit funding. In fact, Applicants assert that not only is the Ryan patent not pertinent to the claimed invention, but it also teaches away from the present invention because it discloses conventional life insurance products with ongoing premium payments without adjusting cash values of the client's assets. Therefore, for at least the reasons discussed previously and above, Applicants respectfully submit that claim 20 as amended is patentable over the Ryan patent. Claims 21-25 dependent from claim 20 and recite additional features and

limitations to claim 20. Therefore, claims 21-25 should also be patentable over the cited art for at least the same reasons as for claim 20 and the rejection of 20-25 under 35 U.S.C. §102(e) should be withdrawn.

Claims 26-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moran in view of Ryan, and in view of Facciani. Applicants argue that the combined reference fails to disclose or suggest each and every element of the claimed invention for at least the reasons presented above. In particular, even with the Ryan patent, the combined references of Moran, Ryan, and Facciani continue to fail to disclose or suggest "**wherein said retirement protection module executes the plan retirement protection module by purchasing a pre-paid, variable life insurance product after re-allocating** at least a portion of the assets at relatively greater risk to the pre-paid, variable life insurance product having a one-time premium at relatively lower risk." Not only do the combined references fail to disclose or suggest the feature of having a one-time premium, but they also fail to disclose or suggest re-allocating at least a portion of the assets based on relative risk factor.

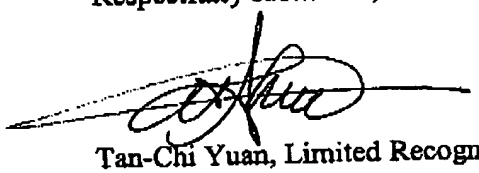
Therefore, Applicants respectfully submit that the Office action fails to establish the *prima facie* elements of an obviousness rejection. Hence, Applicants request the rejection of 26-34 under 35 U.S.C. §103(a) be withdrawn.

Claims 35-43 stand rejected under 35 U.S.C. §102(e) as being unpatentable in view of the Facciani patent. As amended and explained above, the Facciani fails to disclose or suggest each and every element of the invention as claimed. In particular, contrary to the Office action's assertion, no where does the Facciani patent disclose or suggest purchasing of life insurance product using a first one-time premium and a second one-time premium. Additionally, Facciani fails to disclose or suggest automatically generating a plan sufficient to describe at least one of: said first pre-paid death benefit amount, said second pre-paid death benefit amount, and said adjusted pre-paid death benefit amount **as a function of the first one-time premium amount and the second one-time premium amount**. Therefore, Applicants submit that claim 35 is patentable over the cited art and dependent claims 36-43 of claim 35 are also patentable over the cited art. Hence, the rejection of claims 35 to 43 under 35 U.S.C. §102(e) should be removed.

In light of the foregoing, applicants believe claims 1-43 to be in condition for allowance and respectfully request favorable reconsideration of the application as amended.

The Commissioner is authorized to charge $1,020.00 for a three (3) month extension of time up to April 6, 2006 to the Deposit Account No. 19-1345. If, however, the Commissioner determines otherwise, other fees may be charged during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,



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November 7, 2005

Examiner Clement B. Graham
Art Unit 3628
USPTO
Alexandria, VA 22313-1450
fax 571 273 8300
1 pages total

Subject: Power of Attorney re application 09/717189

Dear Examiner Graham,

It has come to my attention that one of the applicants, Ben Wolzenski, on the above referenced application has in the past assigned his rights to a third party and that assignment has been properly registered with the USPTO. Furthermore, that third party has not granted me power of attorney for this case.

Hence, I do not believe that the recent transfer of power of attorney to myself is proper and I do not believe that I am the agent of record for this case. The notice of acceptance of power of attorney was mailed to me on September 30, 2005.

Please correct the power to attorney to its proper status and, if necessary, please reissue the final rejection mailed on October 6, 2005 to the proper attorney of record.

Thank you for your consideration in this matter.

Sincerely,

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